

REMARKS

Claims 1-14 are pending. Reconsideration and allowance of the present application based on the following remarks are respectfully requested.

Applicants appreciate the courtesies extended to Applicants' Representatives during the June 28, 2005 personal interview with the Examiner. A summary of the interview is provided in the interview summary.

Claim Rejections Under 35 U.S.C. § 102

Claims 1, 4, 8, 9, 11, and 14 were rejected under 35 U.S.C. § 102(e) over Harper et al. (U.S. Publication No. 2003/0036882). Applicants respectfully traverse this rejection.

Claims 1, 8, and 14 each recite, in part, a method, apparatus, or computer readable medium for improving software availability that includes duplexing all processes of an unstable primary server on a spare server or other primary server.

As discussed during the personal interview, Harper fails to teach duplexing all processes as recited in claims 1, 8, and 14. Specifically, Harper discloses that a secondary node 301B begins storing state and redo information of primary node 301A when a failure predictor 3011A predicts a failure. The primary node 301A continues to mirror its state updates to secondary node 301B (see, for example, paragraph [0048]-[0049]). As discussed in Harper, the state information is mirrored until the primary node fails or is restarted. The mirroring of state information is not equivalent to duplexing the processes, as recited in claims 1, 8, and 14. As discussed in Harper, the mirroring of state information, causes the outage time to be much shorter than if the state information was not updated (see, for example, paragraph [0050]). As is readily understood, by duplexing the processes instead of merely updating state information, there is no time. That is, since the process is actually running, not merely being mirrored (i.e., copied), there is nothing to be done with the spare server when the primary server is eventually rejuvenated. In the present invention, as defined by claims 1, 8, and 14, the eventual rejuvenation of the primary server is seamless since the process that was running on the primary server is simultaneously running on the spare server (i.e., the processes were duplexed).

Accordingly, Harper fails to teach, or even suggest, a method, apparatus, or computer readable medium for improving software availability that includes duplexing all processes of an unstable primary server on a spare server or other primary server, as recited in each of claims 1, 8, and 14.

Claims 4, 9, and 11 are believed allowable for at least the reasons presented above with respect to claims 1 and 8 by virtue of their dependence upon claims 1 and 8. Accordingly, Applicants respectfully request reconsideration and withdrawal of this rejection.

Claim Rejections Under 35 U.S.C. § 103

A. Claims 2, 6, 7, and 10 were rejected under 35 U.S.C. § 103(a) over Harper (hereinafter Harper (I)) in view of Harper et al. (U.S. Patent No. 6,629,266) (hereinafter Harper (II)). Applicants respectfully traverse this rejection.

Claims 2, 6, 7, and 10 are believed allowable for at least the reasons presented above with respect to claims 1 and 8 by virtue of their dependence upon claims 1 and 8 and because Harper (II) does not remedy the deficiencies of Harper (I) discussed above with respect to claims 1 and 8. Accordingly, Applicants respectfully request reconsideration and withdrawal of this rejection.

B. Claims 3, 5, 12, and 13 were rejected under 35 U.S.C. § 103(a) over Harper (I) in view of Kumar et al. (U.S. Patent No. 6,789,213). Applicants respectfully traverse this rejection.

Claims 3, 5, 12, and 13 are believed allowable for at least the reasons presented above with respect to claims 1 and 8 by virtue of their dependence upon claims 1 and 8 and because Kumar does not remedy the deficiencies of Harper (I) discussed above with respect to claims 1 and 8. Accordingly, Applicants respectfully request reconsideration and withdrawal of this rejection.

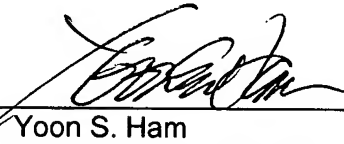
Conclusion

Therefore, all objections and rejections having been addressed, it is respectfully submitted that the present application is in a condition for allowance and a Notice to that effect is earnestly solicited.

Should any issues remain unresolved, the Examiner is encouraged to contact the undersigned attorney for Applicants at the telephone number indicated below in order to expeditiously resolve any remaining issues.

Respectfully submitted,

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